



# NEWS

Federal Communications Commission  
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## FCC ADOPTS RULES RESOLVING HOW PHONE COMPANIES SHARE AND MARKET CUSTOMER INFORMATION

### *Framework Utilizes Both “Opt-in” and “Opt-out” Approaches*

Washington, D.C. – The Federal Communications Commission (FCC) today adopted rules designed to protect sensitive personal information of customers of telecommunications carriers. More specifically, the FCC adopted rules focused on the nature of the customer approval required before a telecommunications carrier can use, disclose or permit access to customer proprietary network information (CPNI). CPNI includes almost all individually identifiable information regarding customers’ phone usage – including to what services they subscribe and to whom, when and where they call.

Today’s FCC action is consistent with the decision of the United States Court of Appeals for the Tenth Circuit in 1999, which vacated the FCC’s the opt-in approach for a carrier to use, disclose or permit access to CPNI. However, the dual opt-in / opt-out approach adopted today carefully balances consumers’ privacy interests and, as directed by the Tenth Circuit decision, carriers’ First Amendment rights that permit carriers’ flexibility in their communication with their customers. Following is a summary of this approach:

- ***Opt-Out*** – Use of CPNI by carriers or disclosure to their affiliated entities providing communications-related services, as well as third-party agents and joint venture partners providing communications-related services, requires a customers’ knowing consent in the form of notice and opt-out approval. Carriers have the choice to use either opt-in or opt-out in this context.
- ***Opt-In*** – Disclosure of CPNI to unrelated third parties or to carrier affiliates that do not provide communications-related services requires express customer consent, or opt-in approval.

In addition, the item adopted today:

1. Further refines the rules governing the process by which carriers provide notification to customers of their CPNI rights. Specifically, the FCC clarified its requirements regarding the form, content and frequency of carrier notices.

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2. Forbears from imposing the express consent requirements announced in this Order with respect to PC-freezes.
3. Affirms its previous determination that the word “information” in section 272 does not include CPNI, which is governed instead by section 222 of the Act.
4. Affirms its finding that the Tenth Circuit decision vacated only the CPNI rules related to opt in and left intact the remainder of the Commission’s rules.

The FCC also adopted a Further Notice of Proposed Rulemaking (FNPRM) seeking comment on enforcement issues and issues related to customer information of carriers that go out of business or seek bankruptcy protection.

-FCC-

Docket Nos.: CC 96-115, 96-149, and 00-257

Action by the Commission July 16, 2002, by Third Report and Order and Third Further Notice of Proposed Rulemaking (FCC 02-214). Chairman Powell and Commissioners, Abernathy, and Martin issuing separate statements; Commissioner Copps approving in part, dissenting in part and issuing a statement.

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